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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/976,647 | 10/11/2001 | Thomas H. Wright | ASD-15; H6206 (51021 CON1 | 2560 |
| 27975 | 7590 | 07/24/2006 | EXAMINER | |
| ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A. 1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE P.O. BOX 3791 ORLANDO, FL 32802-3791 | | | CROSLAND, DONNIE L | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2612 | |

DATE MAILED: 07/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|---------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 09/976,647 | Applicant(s) WRIGHT ET AL. | |
| | Examiner DONNIE L. CROSLAND | Art Unit 2612 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2006 and 10 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 59-75 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 59-75 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>6-1-06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114 was filed in this application after appeal to the Board of Patent Appeals and Interferences, but prior to a decision on the appeal. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 4-26-06 has been entered.

INTERFERENCE

Claims 59-75 of this application has been copied by the applicants from US Patent 6181990 as a result of Reexamination, the certificate issued on 6-6-06.

During the Reexamination proceedings, the Miller, Jr. document (4,729,102) was not considered.

The claims as amendment recite obvious subject matter in view of the specified teachings of Miller, Jr.

These claims are not patentable to the applicants because of the rejection that follows.

Interference cannot be initiated since a prerequisite for interference under 37 CFR 1.606 is that the claim be patentable to the applicant subject to a judgment in the interference.

Specification

The amendment filed 5-10-06 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The inclusion of "wherein said flight data includes time, airspeed, altitude, vertical acceleration, and heading data relating to a flight of the aircraft" is new matter unsupported by the original disclosure.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 59-75 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claim language "wherein said flight data includes time, airspeed, altitude, vertical acceleration, and heading data relating to a flight of the aircraft" is new matter unsupported by the original disclosure.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 59, 62-70, and 75 rejected under 35 U.S.C. 103(a) as being unpatentable over Ross in view of Miller, Jr. (4729102), already of record.

Ross shows an aircraft data transmission system, the aircraft having a data acquisition unit 10 comprising a communication unit 24 located in the aircraft and in communication with the data acquisition unit 10; a cellular infrastructure (col. 4, lines 40-50) in communication with the communication unit 10 after the aircraft has landed, wherein the communication is initiated automatically upon landing of the aircraft; and a data reception unit 32 in communication with the cellular infrastructure, see col.5, lines 48 et seq., wherein after the aircraft has landed, a second switch 14 communicates with

the controller 10; further in col. 6, lines 13-36, acquired aircraft data is automatically communicated to the flight center's controller 32 upon the aircraft being downed. The term downed equates to landing, also, see claims 12 and 13.

Accordingly, Ross clearly disclose the automatic activation of a second switch 14 associated with the landing or downing of the aircraft in which relevant acquired data is communicated through a cellular infrastructure to a ground base receiver, col. 5, lines 48-66.

With respect to claim 62, Ross discloses a modem, col. 6, and lines 48-51.

With respect to claim 63 an antenna is inherent in cellular infrastructures of Ross.

With respect to claim 64 the recited "router" is inherent in the cellular infrastructure of Ross are conventionally associated with cell infrastructures.

With respect to claim 69 recitation of a digital flight data acquisition unit, Ross discloses controller 10 can be a TI Travelmate 4000, col. 6, lines 37-40.

With respect to claim 67, receiver for data can be a mainframe, col. 5, and lines 1-4.

Claims 65, 68, and 69 are clearly met by Ross as discussed above.

Claim 75 is clearly met by Ross with respect to processors in both the aircraft and the ground station each processing information with respect to a computer readable medium as illustrated in the flow chart in figure 2.

Ross provides for a data storage medium having stored thereon flight data gathered in flight, the controller 10 being a Texas Instrument notebook computer, col. 6, lines 37-45. The controller 10 inherently has a memory for storage purposes.

Ross further suggests that in an alternate embodiment, the controller 10 communicates flight data such as altitude, air speed, and direction of the aircraft, the downloading or transmission of the flight data being activated due to downing or impact of the aircraft col. 6, lines 13-36.

Accordingly, it is clearly realized from the teachings of Ross, the provision of a switch activated due to landing or the aircraft being down which transmits flight data such as altitude, air speed, and direction of the aircraft.

It should be noted that flight data (status) gathered in flight as well as flight plan data is communicated to a data reception unit.

Ross fails to suggest the specified flight data of "vertical acceleration".

Miller shows the aircraft data transmission system with a data storage medium in flight data recorder data acquisition circuitry 10, figure 1.

Miller further suggests the specific flight data that includes vertical acceleration, see col. 7, lines 44-68, col. 8, lines 1-24, col. 9, lines 1-16, col. 10, lines 29-68, col. 18, lines 30-56, col. 22, lines 3-11.

It would have been obvious to one having ordinary skill in the art to clearly provide a storage for in flight data and include a specific parameter such as vertical acceleration as part of the in flight data in the aircraft data transmission system of Ross because the use and advantages of a storage for in flight data which includes a specific parameter such as vertical acceleration as part of the in flight data in the aircraft data transmission system is clearly suggested by Miller, Jr.

Miller also provides for the automatic or manual operation of switches for the transmission of flight data, see col. 8, lines 5-24.

Claims 60 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross et al and Miller as applied in claims 59 and 70 further in view of Miller et al (5,652,717).

Miller shows in figure 2 the acquisition of data from an aircraft 14, col. 2, lines 34-45, and provides for a telecommunication network 22 and internet communication, col. 3, lines 4-18, 65 et seq.

Miller is relied upon to show that it is conventional to manipulate the data received from the aircraft 14 through an Internet connection 30.

Claims 60 and 71 only recite that the data reception unit is in communication with the cellular infrastructure via the Internet.

Cellular infrastructure is clearly as 24 in Ross et al.

The Internet connection 30 which is at the reception unit provides an Internet access as disclosed by Miller

Accordingly, it would have been obvious to one having ordinary skill in the art to provide an internet connection for communication purposes in a reception unit because the specific use of providing an internet connection for communication purposes in a reception unit concerned with aircraft data acquisition and transmission is clearly suggested by Miller, see col. 3, lines 25-44, and specifically lines 40-44, for interactive internet support.

Claims 61 and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross et al and Miller as applied in claims 59 and 70 further in view of Bannister

Bannister shows a data acquisition system and provides for conventional PSTN interfaced with the Internet, see figure 1 and related disclosure.

Accordingly, Bannister teaches the artisan the combined use of PSTN AND INTERNET.

Accordingly, at the time the invention was made, the combined use of cellular communication, Internet access, and PSTN are all well known and conventional as evidenced by the teachings of the references as discussed above.

Patentable invention is not involved in employing Internet connection through the cellular phone system such as conventional (PSTN), see Bannister.

Claims 73 and 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross et al in view of Miller, Jr. further in view of Polivka et al.

Polivka shows in an aircraft data acquisition and transmission means as shown in figure 3a and 3b, and provides for the acquisition of data such as a video camera 327 in figure 3a, compressing (323, figure 3a), encrypting (such as forward error correction encoder unit 330, figure 3b), segmenting and constructing packets of data from the segmented flight data (PSK/SPREAD spectrum modulator 361 in figure 3b), see col. 10, lines 13 et seq.

With respect to claim 74, the acknowledgement of receipt of the transmitted data is no more than the response due to the video teleconference as provided for in Polivka, col. 10, such is no more than conventional bi-directional communication and would not involve patentable invention.

It would have been obvious to one having ordinary skill in the art to process the flight data of Ross as modified by Miller Jr. in the aircraft data transmission system in a manner as suggested by Polivka in an aircraft data transmission system.

Any advantages seen are those naturally expected due to the specified processing of Polivka.

Response to Arguments

Applicant's arguments filed 5-10-06 have been fully considered but they are not persuasive. Applicants argue that in view of FAA section 121.343, the disclosed and claimed flight data "inherently" includes time, airspeed, altitude, vertical acceleration, and heading data.

Applicants' further state that "other data" are also recorded as set forth in the regulation.

The examiner contends that the flight data with respect to time, airspeed, altitude, vertical acceleration, and heading data are specific data that is transmitted.

Other data may be monitored, however, it is submitted that among the other data monitored, only the data that includes time, airspeed, altitude, vertical acceleration, and heading data is transmitted or communicated to a data reception unit.

This is the specific language that these claims are limited to.

A review of applicants' disclosure lacks mention of this specific data for storage as well as transmission.

It is submitted that even though the FAA requirement for the monitoring of data specified by the rule, there is no rule governing the transmission of the specific monitored data as represented in the claims.

Accordingly, applicants' disclosure fails to set forth the specific flight data in the form time, airspeed, altitude, vertical acceleration, and heading data as well as the communication of such specific flight data to a data reception unit.

Reexamination 90/006,742 has been reviewed. It is noted that the prior art document to Miller, Jr. (4,729,102) was not considered in the reexamination proceedings and therefor was not considered with respect to the patentability of the reexamination claims.

The examiner considers the teachings of Miller, Jr. pertinent with respect to the examination of the claims at issue as indicated above.

Conclusion

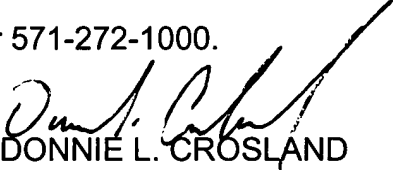
Any inquiry concerning this communication or earlier communications from the examiner should be directed to DONNIE L. CROSLAND whose telephone number is 571-272-2980. The examiner can normally be reached on Mon-Thur. 9:30a-6:00p.

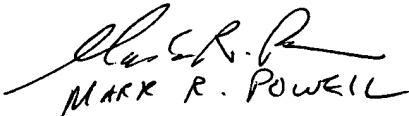
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MICHAEL HORABIK can be reached on 571-272-3068. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


DONNIE L. CROSLAND
Primary Examiner
Art Unit 2612


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7-13-06